

CPDE COMPENDIUM

Officers and Board Members

2008

Past President Pro Tem
Rick Gaskins

President
Bill Landsea

Vice President
Laura Taylor

Secretary
Graham Mitenko

Treasurer
Kevin Kirkendall

2009

Past President
Bill Landsea

President
Laura Taylor

Vice President
Kent Jayne

Secretary
Graham Mitenko

Treasurer
Kevin Kirkendall

CPDE Compendium

Editor
Bob Male

Editor
Michael J. O'Hara

Production Editor
Nancy Male

2009 ANNUAL CONFERENCE

The Orleans Hotel and Casino

Las Vegas, NV

April 1-2, 2009

Tuesday, March 31

Pre-Conference Social Gathering:

Rick Gaskins organized a social gathering for those that arrived and wanted to meet on Tuesday evening starting at 9:00 pm. The site for this gathering was posted on CPDE-e well before the conference dates.

Wednesday, April 1

Session #1 Personal Injury
9:30 – 11:30 am Salon A
Organizers/Chairs: Gil Mathis and Laura Taylor

In this session many of the core methodological issues encountered when working on a personal injury case were examined and discussed. This discussion was facilitated through examination of a case about a hypothetical 15-year old male who had been permanently disabled as the underlying context for the analysis. Areas and issues included:

1. What information to request when the attorney first contacts you about the case.
2. Determination of worklife expectancy. As part of this Kent Jayne led a discussion that focused on the implications of the Markov model for worklife expectancy estimates, and the impact of vocational rehabilitation expertise including accounting for the effects of disability.
3. Sources and methodology for determining base earnings and adjustments to base earnings (earning capacity and expected earnings).
4. Determining the value of benefits and what benefits should be included.
5. Sources and methods for determining wage growth rates, use of specific vs. general, historical vs. forecasted, etc.

CPDE 2010 Conference and Business Meeting



March 12-13, 2010

**The Orleans Hotel and Casino
Las Vegas, Nevada**

In this issue

2009 Annual Conference Review

Business Meeting Minutes, April 2, 2009

CPDE Bylaws

Conference Information for 2010

CPDE COMPENDIUM

6. The calculation of the discount rate. As part of this Thor Bruce led a discussion on the use of the historic Geometric Mean versus the Arithmetic Mean in estimating the discount rate.
7. Deductions for household services if covered in the Life Care Plan.
8. Tax offsets.
9. The deduction of Social Security Disability income.
10. The projection of future cost increases for a Life Care Plan. As part of this Bob Male presented his methodology and table for determining medical care growth rates.

Session #2 **Wrongful Death**
1:30 – 3:30 pm Salon A
Organizer/Chair: Bill Landsea

1. Overview of conventional analyses.
2. Review of issues:
 - a. Life Expectancy - Normal, Injured, Joint.
 - b. Personal Consumption.
 - c. Savings.
 - d. Wealth at retirement – changes in retirement – wealth at death.
 - e. Data sources for above.
3. Some issues little visited:
 - a. Savings intended to be gifted vs. already given.
 - b. Measuring estate at date of death vs. actual at normal life exp.
 - c. Decedent's impact on growth rate of savings.
 - d. Lost Pension realization: lost income? lost accumulations?
 - e. Lost pensions as lost support.
4. Paper: "RISK REVISITED - IS THERE ANY 'SAFE' INVESTMENT?", by Bill Landsea. Reexamines what might now be the appropriate discount rate for long term losses.
5. Your favorite or least favorite case.

Social Debriefing
4:00 – 6:00 pm Past Pres. Suite
Met for snacks and drinks to discuss the events of the day, plans for the evening and the next day.

Thursday, April 2

Session #3 **Employment**
9:30 – 11:30 am Salon A
Organizer/Chair: Bob Male

This session examined the issues and methodology related to evaluating the economic losses in an employment case (wrongful termination, discrimination, etc.). A sample case analysis/report was provided and served as the initial focus of discussion and vehicle to expand the examination into all pertinent areas. Participants were asked to study the sample report and prepare their comments and points of discussion in advance to maximize their ability to contribute to the discussion. Michael J. O'Hara presented a paper: "PECUNIARY VALUE".

Session #4 **Important Issues**
1:30 – 3:30 pm Salon A
Organizers/Chairs: Rick Gaskins and Kevin Kirkendall

A number of issues that are of importance to pecuniary damages experts were examined and discussed:

1. Pecuniary Damages Expert's Role in Collaborative Law (Rick Gaskins).
 - a. What is collaborative law (CL)?
 - b. What is collaborative divorce?
 - c. How do pecuniary damages experts get involved?
2. Forensic Accounting for Pecuniary Damages Experts (Kevin Kirkendall).
 - a. A case study based discussion of how experts other than accountants can reasonably be involved with forensic accounting without getting outside their "realm of expertise".
 - b. Useful methods and "tools".

Disclaimer



CPDE Compendium is published annually, as a service to members, by the Collegium of Percuniary Damages Experts (CPDE). Members and Non members may view and/or download a copy from the website at <http://www.cpde.info>. CPDE does not endorse particular products or assessment methods. Any opinions stated in each section are those of the authors, and not the organization. For information about, or to submit items for the newsletter, please contact Bob Male at bobmale@hawaii.rr.com or Micheal J. O'Hara at mohara@mail.unomaha.edu.

CPDE COMPENDIUM

3. Marketing Pecuniary Damages Practices (Tom Roney).
 - a. Need to Market?
 - b. Three effective methods.
 - c. Three even better methods.
 - d. Other tools and costs.

Note: As is the CPDE way, all those in attendance actively contributed and participated, thereby making the sessions very enlightening and rewarding to all.

Annual Business Meeting

3:45 – 4:30 pm Salon A
President Bill Landsea presiding

The Business Meeting was be conducted in accordance with the CPDE Bylaws. Members were urged to refer to the Bylaws for information on prescribed issues and content (Draft Minutes follow).

Social Debriefing

Conclusion of Business

Meeting – 6:00 pm or so Past Pres. Suite

Met for snacks and drinks to discuss the events of the day, plans for the evening and the next Annual Conference.

MINUTES

Collegium of Pecuniary Damages Experts (CPDE) Business Meeting Thursday, April 2, 2009 Draft (Subject to approval at 2010 Business Meeting)

During the conference, upon the consensus of the members, the conference agenda was adjusted to accommodate the air schedules of various members so that all members present at the conference could attend the Business Meeting. The members agreed to shift forward in the day the time of the Business Meeting.

President Bill Landsea called the first Business Meeting of CPDE to order at 11:40 AM at the Orleans Hotel in Las Vegas, Nevada. Due to the absence of CPDE Secretary Graham Mitenko, Michael J. O'Hara served as Secretary Pro Tem.

Those in attendance included Thor Bruce, Bryan Conley, Rick Gaskins, Kent Jayne, Kevin Kirkendall, Bill Landsea, Bob Male, Gil Mathis, Eric O'Connor, Michael J. O'Hara, Tom Roney, Stan Smith, Laura Taylor, and Paul Taylor. The current total membership is 26, and Bylaws section 6[e] specifies a quorum as 25% (e.g., 7 of 26), thus since 14 CPDE Members are present a quorum is present.

At a pre-conference gathering, we had a medical scare as one of our number experienced the onset of Bell's Palsy.

This meeting used the informal procedures of Robert's

Rules of Order. All MOTIONS were oral and all motions were adopted by unanimous voice vote after having reached consensus.

The body discussed the membership application process found in sections 2 and 4 of the Bylaws (i.e., [i] existing CPDE Member make a recommendation of an applicant to the Membership Committee; [ii] the applicant submits an application to the Membership Committee; [iii] the Membership Committee upon a 2/3rds affirmative vote recommends the applicant to the entire CPDE membership; and [iv] the entire CPDE membership votes by a 2/3rds affirmative vote to grant membership). (NOTE: Near the end of this Business Meeting the body adopted a Motion regarding Charter Member status.)

The body took up the question of CPDE publications. The body considered creation of a journal and considered the creation of a newsletter; and if either or both of those publications were created persons to occupy the office of editor for the publication. President Landsea asked Bob Male to lead this discussion. The body discussed the advantages and challenges of [i] a journal (i.e., open to all PD authors), a proceedings of the CPDE conference, and a newsletter; [ii] paper versus electronic distribution; and [iii] different frequencies of publication. In anticipation of the potential for a journal or a proceedings all members received reviewer forms to complete for selected working papers. Given the currently limited membership base a consensus formed to initiate a newsletter and wait on a proceedings or a journal.

As part of the publications discussion the body turned its attention to the Google groups listserv CPDE-e and the www.cpde.info website. Rather than starting a journal or proceedings at this time the consensus was to create a public portion and a members-only portion (i.e., password protected) of the www.cpde.info website. In the members-only portion working papers presented at the CPDE conference would be posted as well as other working papers by members and useful links recommended by members. In the public portion would be public documents (e.g., Bylaws, the past and current newsletters, and the list of titles [but without a list of either the authors or copies of the working papers] presented at CPDE conference). In the members-only portion, in addition to the list of authors and copies of the working papers and links, would be an archive of CPDE newsletters

MOTION: The www.cpde.info has an open to the public home page along with several other pages open to the public. Those open pages would include the CPDE Bylaws, a list of CPDE's current and past officers and directors, and a list of Working Papers titles presented at the CPDE conference. In the open section only the titles of the Working Papers shall be listed; but, there will be an email link for asking the

CPDE COMPENDIUM

webmaster to forward to the (not listed) author a request for a copy of the manuscript.

MOTION: The open portion of the www.cpde.info shall include an alphabetical listing of all CPDE members. In the members-only portion, but not in the open portion, the list of Founding CPDE Members and Charter Members shall be listed on the officers and directors page.

MOTION: The default listing of the members shall be name only. However, a member may choose to provide additional contact information in the form of a telephone number, an email address, and/or a website URL.

REPORT: CPDE Treasurer Kevin Kirkendall gave his REPORT, which the body accepted. As of the start of this Business Meeting CPDE has approximately \$1,300 on hand remaining after [i] paying the conference hotel expense of \$670; and [ii] spending approximately \$200 on the conference's two social receptions. For a variety of reasons, six members are past due on their dues; but, that is expected to be corrected shortly.

Treasurer Kirkendall requested direction from the body with respect to the dates of the 2010 conference and business meeting. The body discussed the pros and cons of meeting mid-week or near the weekend as well as the pros and cons of meeting at various weeks during March and April. The consensus was for a meeting on Friday and Saturday with a preference for March 12 and 13, 2010; but with March 5th & 6th and March 26th & 27th also being acceptable options. The consensus was to again stay at the Orleans Hotel. Kirkendall took this advice from the body and approached the Orleans for negotiations.

MOTION: Amend the Bylaws to grant Charter Member status to all members of CPDE admitted as of the date of the 2009 meeting.

MOTION: Payment of dues serves also as payment of conference registration fee. Dues are \$100 per year. Dues paid after the end of one Business Meeting are for the period ending with the next Business Meeting (e.g., dues paid on April 3, 2009 are for the period ending at the end of the Business Meeting on March 13, 2010).

NOTE: The CPDE Bylaws section 3 provides that the existing Vice President will assume the office of President, and the existing President will assume the office of Past President at the conclusion of the Business Meeting as each of those three offices has a term of office of one year; and that the Secretary and the Treasurer hold offices for a term of three years. Accordingly, there is no need for an election at the 2009 Business Meeting for either the office of Past President or of President because there was not a vacancy in the office from which a promotion is to occur.

NOTE: Upon the formation of CPDE, of course, all offices were vacant. Accordingly the Founders elected Rick Gaskins to the office of Past President as a Pro Tem holder of that office; Bill Landsea to the office of President; Laura Taylor to the office of Vice President; Graham Mitenko to the office of Secretary; and Kevin Kirkendall to the office of Treasurer. Accordingly, following the 2009 Business Meeting Bill Landsea assumed the office of Past President; Laura Taylor assumed the office of President; and Mitenko and Kirkendall continue, respectively, as Secretary and Treasurer until the conclusion of the 2011 Business Meeting.

During the 2009 Business Meeting the CPDE Members needed to elect a new Vice President and a 2010 Conference Coordinator.

MOTION: Kent Jayne was nominated for the office of Vice President and was elected by acclamation.

MOTION: Bob Male was nominated for the office of Conference Coordinator for the 2010 CPDE conference and was elected by acclamation.

MOTION: Kevin Kirkendall was nominated for the office Conference Coordinator Assistant and was elected by acclamation.

Treasurer Kirkendall returned with a report on his negotiations with the Orleans regarding the dates and prices of a 2010 conference. The room rate will be \$48 on Thursday and Sunday (i.e., day before and day after conference) and the room rate will be \$105 on Friday and on Saturday (i.e., the days of the conference). The dates of March 11 - 14, 2010 are available.

MOTION: CPDE shall hold its 2010 conference and Business Meeting at the Orleans Hotel in Las Vegas on Friday and Saturday, March 12 and 13.

MOTION: The 2009 conference re-started at 2:00 PM today, April 2 so as to accommodate a lunch period following the 2009 Business Meeting

The body discussed whether the Bylaws ought to be amended with respect to the current maximum number of members (i.e., section [2i] limits CPDE to a maximum of 40 members). The current CPDE membership stands at 26. The discussion centered on a proposed maximum of 50. The consensus was to not change the Bylaw maximum until that maximum actually became a constraint; and, if it did become a constraint between Business Meetings (e.g., prior to March 2010), then it would be feasible to amend the Bylaws via an electronic meeting using section [6e].

MOTION: As part of their obligation to be actively involved in CPDE, all CPDE Members shall be required to timely enroll in the Google groups listserv CPDE-e.

MOTION: CPDE initiate a newsletter with Bob Male and Michael J. O'Hara as Co-Editors. The budget of the newsletter may be as much as \$500.

MOTION: The first Business Meeting of the Collegium of Pecuniary Damages Experts (CPDE) adjourned at 1:15 PM on April 2, 2009.



BYLAWS

Collegium of Pecuniary Damages Experts (CPDE)

CPDE COMPENDIUM

Section 1: MISSION.

[1a] The Collegium of Pecuniary Damages Experts (CPDE) is a limited membership organization dedicated to collegial discourse that strives to advance knowledge and understanding relevant to providing expert assessment and testimony on pecuniary damages in litigation, and helpful sharing and networking among colleagues.

Section 2: MEMBERSHIP.

[2a] Membership in CPDE is limited to natural persons with knowledge and experience as an expert providing assessment and testimony on pecuniary damages in litigation, and/or with applicable preparatory background and a desire to learn how to work successfully in this professional field.

[2b] Membership in CPDE is limited to persons that secure the support of a current CPDE Member to act as sponsor, request membership in writing to the CPDE Membership Committee through the sponsor, and receive an affirmative 2/3 vote from both the CPDE Membership Committee and CPDE's Members.

[2c] Membership in CPDE is limited to those persons that have demonstrated collegiality, active participation, and positive sharing of knowledge and experience throughout their interactions with fellow professionals. Members are encouraged to attend and actively participate in each Annual Conference, as well as be responsive to communications from fellow Members.

[2d] Membership in CPDE may be revoked if a Member does not adhere to the standard of conduct expressed in CPDE's Mission and membership requirements. Revocation of CPDE membership requires an affirmative 2/3 vote of both the CPDE Membership Committee and CPDE's Members.

[2e] Membership in CPDE is contingent upon the timely payment of annual dues of \$100. CPDE will use the calendar year as its fiscal year. The term of membership runs from January 1 of each year through December 31 of that year. Annual dues are due before January 1, and annual dues are considered not timely paid if unpaid by the earlier of the start of the Annual Business Meeting or February 15. The amount of and/or the due date for future annual dues payments may be changed by a majority vote of Members at an Annual Business Meeting. Membership is lost automatically if dues are not paid in a timely manner. If membership is lost through the non-payment of dues, then the former Member must reapply for membership and cannot merely regain membership by paying past and current dues.

[2f] CPDE Members may attend all CPDE Conferences, vote on CPDE business, and may be elected or appointed as a CPDE officer, director, or committee member. Conferences, especially conferences of other professional associations that have CPDE joint sponsorship, might require a payment of a registration fee.

[2g] Founding Members of CPDE are current Members as of July 1, 2008.

[2h] Charter Members of CPDE are those that became Members prior to the 2009 Annual Business Meeting.

[2i] The number of CPDE Members shall not exceed 40.

Section 3: BOARD OF DIRECTORS AND OFFICERS.

[3a] The CPDE Board of Directors shall consist of a Vice President (to become the next President), President, Past President, Secretary, and Treasurer. The Members shall elect the Vice President, Secretary and Treasurer as officers of CPDE and as members of the Board of Directors. The Board may appoint other Officers who shall serve as ex officio non-voting members of the Board of Directors. The term of the

Vice President, President, and Past President is one year in each position, and serving consecutive terms in these offices is not allowed. The term of the Secretary and the term of the Treasurer is three years and each may serve consecutive terms. Upon good cause shown, any officeholder's term of office may be terminated by a 2/3 vote of CPDE Members. The nomination and election of Officers to positions open due to an end of term of office shall take place during the Annual Business Meeting.

[3b] The Board shall conduct CPDE business as needed between Annual Business Meetings.

[3c] The President shall serve as the presiding officer of all Meetings of the Board and of the Members. The Vice President shall serve in lieu of the President when the President is absent. The Secretary shall record minutes of all Meetings of the Board and of the Members and manage all necessary communications for the organization. The Treasurer shall set up and manage a bank account for CPDE and oversee and manage all organization financial requirements.

[3d] All officers and all directors of CPDE must be Members of CPDE. Loss of CPDE membership automatically creates a vacancy in the office held by that officer or director. To fill a vacancy in either an elected or an appointed office or director seat the President, with a second, shall place before the CPDE Board the nomination of a CPDE Member to fill the vacancy. The Board shall fill such vacancies either by accepting the President's nominee or by amending the President's nomination. No person is qualified to fill a vacancy in a Past President seat unless that person is a Past President of CPDE.

[3e] The Members may authorize CPDE to publish one or more publications. If the Members authorize one or more publications, then the Board shall appoint one or more Editors. Each appointed Editor shall serve as an Officer at the pleasure of, and under the direction of, the Board.

[3f] All officers and directors shall be indemnified for actions taken that were reasonably believed to be within their scope of authority.

Section 4: COMMITTEES.

[4a] CPDE shall have the following standing committees: [i] Membership Committee; and [ii] Conference Committee. As the need arises, the Board may create and may appoint willing members to ad hoc committees.

[4b] The Membership Committee shall be chaired by the Past President and include the President and Vice President. If desired, up to two additional (non-Board) Members may be added to this committee by unanimous vote of all prescribed committee members. Preferably before, but no later than 75 days prior to the next Annual Conference, the Membership Committee shall send a motion (or motions) before the members for all membership applications that obtained Committee approval. Voting by the existing CPDE Members on applications for or revocations of membership may be done by secret ballot, and in every event the Chair of the Membership Committee and the CPDE Secretary shall tally the votes. The process for voting on membership will be determined and executed by the Chair of the Membership Committee and the

CPDE COMPENDIUM

CPDE Secretary following approval by the Board and must be completed for that membership period no less than 60 days prior to the next CPDE Annual Conference.

[4c] The Chair of the Conference Committee shall be appointed by the Board. The Chair may add additional Members to the Conference Committee with the prior approval of the Board. The Conference Committee shall facilitate the organization and implementation of all plans, contracts, and arrangements for all CPDE Conferences and Meetings.

Section 5: MEETINGS.

[5a] CPDE shall have an Annual Conference and Annual Business Meeting at a time and place determined by vote of the Members. In the absence of a vote of the members, the Annual Business Meeting shall be at 10:00 AM on the last Thursday in March at the offices of the Nevada Secretary of State.

[5b] The Annual Business Meeting is open only to current CPDE Members. The Annual Conference is open only to current Members of CPDE and speakers or guests invited by the Conference Committee. The Annual Conference and Annual Business Meeting will be organized and moderated in a manner consistent with collegial discourse. Conference participation is intended to enhance knowledge and understanding rather than to emphasize lines of difference. When disagreements occur, participants are expected to disagree collegially by focusing their discussion on differences in perspective and approach, rather than demeaning any person, type of training, or methodology. CPDE Members attending should attend prepared to actively participate. The Annual Conference and Annual Business Meeting will take place over a period of two days at a site and time to be determined by Members during the preceding Annual Business Meeting. A record of topics and presenters will be kept, memorialized, and possibly distributed in a form to be agreed upon by the Members.

[5c] Conference sessions will be organized and moderated by chairpersons appointed by the Conference Committee. In addition to the Annual Conference, the Conference Committee is encouraged to seek out professional educational opportunities for CPDE Members that are offered by other professional associations, and the committee may authorize CPDE joint sponsorship of those educational opportunities when the goals and practices are consistent with CPDE's goals and practices. The Conference Committee shall report to the Board and to the entire CPDE membership all such jointly sponsored educational opportunities well prior to the occurrence of the event; but the Board may revoke the committee's authorization of CPDE's joint sponsorship prior to the occurrence of the event.

[5d] The agenda of the Annual Business Meeting shall include, but not be limited to: [i] reports from each officer of CPDE; [ii] elections; [iii] annual review and possible amendment of these Bylaws; [iv] selection of date and place of next Annual Conference and Annual Business Meeting; [v] ratification of membership nominations and/or revocations if needed; and [vi] new business.

[5e] All Meetings shall be conducted in accordance

with the most recent edition of Robert's Rules of Order. Proxy voting is not allowed. Every decision of every CPDE body requires a majority affirmative vote of the body's members who are attending, unless these Bylaws or Robert's Rules of Order require a greater vote. Decisions by the Board of Directors require a majority vote of all voting Board Members. An amendment to these Bylaws requires a 2/3 affirmative vote of Members present at the Annual Business Meeting. The quorum of every CPDE body is a majority of that body, except for the Annual Business Meeting of the CPDE Members, which shall use a quorum of 25% of the Members. Any CPDE body may conduct a meeting by voice telephony or by video telephony or in-person. A CPDE body may meet other than in-person and may conduct a vote other than in-person or by surface mail ballot, but when [A] meeting other than in-person or when [B] voting other than in-person or by surface mail ballot, then that meeting and that voting must at all times maintain unanimous consent for the conducting of that meeting or that vote.

Section 6: DISSOLUTION.

[6a] The CPDE shall continue as an organization of members until such time as the then current Members vote during an Annual Business Meeting that CPDE ought to dissolve.

[6b] Any Member may make a motion of dissolution by delivering 30 days written notice to the Board of Directors.

[6c] A unanimous Board of Directors may make a motion of dissolution upon less than 30 days notice to the Members; otherwise, the Board must provide the Members with at least 30 days written notice of the Board's intent to make a dissolution motion at the Annual Business Meeting.

Approved 7/01/08

Amended 4/02/09

NOTE: At the 2009 Annual Business Meeting of CPDE, the Members by more than a 2/3rds affirmative vote, amended the CPDE Bylaws section [2h] by extending Charter Member status to those that joined CPDE between January 1, 2009 and April 2, 2009.

CPDE 2010 Conference and Business Meeting

March 12-13, 2010

The Orleans Hotel and Casino
Las Vegas, Nevada

By all accounts, CPDE's first Annual Conference and Business Meeting was a resounding success. Planning for the 2010 Conference is underway and will likely result in an even more rewarding experience than this year.

Members will be included in program development and informed about program decisions via CPDE-e.

The 2010 Conference dates were moved to Friday and Saturday to minimize conflicts that members were having with teaching or testifying. Members should plan on attending and participating.